

- (e) "Normal full pool elevation" means the water level at the dam determined by means of measuring elevation above mean sea level, excluding variations due to wind and wave action on surface water and variations resulting from extraordinary flood conditions, and which in the case of Ross Lake is based on the City of Seattle Ross Dam datum for Ross Lake and in the case of the Seven Mile Reservoir is based on the Geodetic Survey of Canada datum for the Seven Mile Reservoir; and
- (f) "Arbitration tribunal" means an arbitration tribunal established pursuant to section 10 and Appendix C of the Agreement.

## ARTICLE II

### AUTHORIZATIONS

1. (a) In the event that British Columbia discontinues its obligation to deliver electrical power to Seattle under the Agreement or an arbitration tribunal determines that conduct of British Columbia constitutes a material breach of the Agreement, Seattle is, in accordance with and subject to the terms and conditions specified in this Treaty and the Agreement, authorized to raise the level of Ross Lake on the Skagit River by means of construction and operation of Ross Dam to a normal full pool elevation of 1725.0 feet, subject to the terms and conditions contained in Opinion No. 808 of the United States Federal Power Commission issued July 5, 1977, Opinion No. 808A of the Federal Energy Regulatory Commission issued August 2, 1978, and in other actions of the Federal Energy Regulatory Commission in implementation thereof, including provisions for High Ross Dam in the relicensing by the Federal Energy Regulatory Commission of Seattle's Project No. 553, of which Ross Dam is a part.
  - (b) This authority is to be exercised by Seattle at its option, without regard to any United States law, decision, regulation or order which might be argued as limiting or negating this authority, including provisions of the Federal Power Act relating to the time in which project construction must otherwise commence or to the term of license, or any other provision, during the term of this Treaty, provided that full compensation to British Columbia in the event of operation of Ross Lake at a normal full pool elevation of 1725.0 feet shall be as provided for in the Agreement and in lieu of any conditions in Opinions 808 and 808A or in any licensing order or orders for Project No. 553 with respect to British Columbia, and provided further that unless and until the normal full pool elevation of Ross Lake is thus raised, Seattle shall not be required to pay any increase in annual charges attendant thereupon under section 10(e) of the Federal Power Act.
2. The Government of Canada shall obtain the legislative or other authority necessary to enable British Columbia to export electrical power in accordance with the terms and conditions of the Agreement.